



COUNCIL CHAMBERS

17555 PEAK AVENUE MORGAN HILL CALIFORNIA 95037

COUNCIL MEMBERS

Dennis Kennedy, Mayor
Steve Tate, Mayor Pro Tempore
Larry Carr, Council Member
Mark Grzan, Council Member
Greg Sellers, Council Member

REDEVELOPMENT AGENCY

Dennis Kennedy, Chair
Steve Tate, Vice-Chair
Larry Carr, Agency Member
Mark Grzan, Agency Member
Greg Sellers, Agency Member

WEDNESDAY, APRIL 6, 2005

AGENDA

JOINT MEETING

CITY COUNCIL SPECIAL AND REGULAR MEETING

and

REDEVELOPMENT AGENCY SPECIAL MEETING

6:00 P.M.

A Special Meeting of the City Council and Redevelopment Agency is Called at 6:00 P.M. for the Purpose of Conducting Closed Sessions.

Dennis Kennedy, Mayor/Chairman

CALL TO ORDER

(Mayor/Chairperson Kennedy)

ROLL CALL ATTENDANCE

(City Clerk/Agency Secretary Torrez)

DECLARATION OF POSTING OF AGENDA

Per Government Code 54954.2

(City Clerk/Agency Secretary Torrez)

6:00 P.M.

City Council Action and Redevelopment Agency Action

CLOSED SESSION:

1.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Authority: Government Code Sections 54956.9(b) & (c)
Number of Potential Cases: 4

2.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION:

Authority: Pursuant to Government Code 54956.9(a)
Case Name: City of Morgan Hill v. Howard Vierra
Case Number: Santa Clara County Superior Court, Case No. 1-04-CV-026723

3.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION:

Authority: Pursuant to Government Code 54956.9(a)
Case Name: General Lighting Service, Inc. v. Wells Construction Group, et al. [Consolidated
Actions]
Case Number: Santa Clara County Superior Court, Lead Case No. 1-04-CV-025561

OPPORTUNITY FOR PUBLIC COMMENT

ADJOURN TO CLOSED SESSION

RECONVENE

CLOSED SESSION ANNOUNCEMENT

7:00 P.M.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

PROCLAMATION

Donation of Third Street Bridge Improvements for
Morgan Hill Grand Prix
WebCor Representative

RECOGNITIONS

Teacher of the Year 2003-2004
Megan Bergantz, Leland High School
Leonore Robledo, Willow Glen High School

PRESENTATION

Bob Eltgroth
Retiring Bicycle and Trails Committee Member

CITY COUNCIL REPORT

Mayor Pro Tempore Tate

CITY COUNCIL SUB-COMMITTEE REPORTS

CITY MANAGER'S REPORT

CITY ATTORNEY'S REPORT

OTHER REPORTS

PUBLIC COMMENT

NOW IS THE TIME FOR COMMENTS FROM THE PUBLIC REGARDING ITEMS NOT ON THIS AGENDA.

(See notice attached to the end of this agenda.)

**PUBLIC COMMENTS ON ITEMS APPEARING ON THIS AGENDA WILL BE TAKEN AT THE TIME
THE ITEM IS ADDRESSED BY THE COUNCIL. PLEASE COMPLETE A SPEAKER CARD AND
PRESENT IT TO THE CITY CLERK.**

(See notice attached to the end of this agenda.)

**PLEASE SUBMIT WRITTEN CORRESPONDENCE TO THE CITY CLERK/AGENCY SECRETARY. THE
CITY CLERK/AGENCY SECRETARY WILL FORWARD CORRESPONDENCE TO THE CITY
COUNCIL/REDEVELOPMENT AGENCY.**

City Council Action

CONSENT CALENDAR:

ITEMS 1-16

The Consent Calendar may be acted upon with one motion, a second and the vote, by each respective Agency. The Consent Calendar items are of a routine or generally uncontested nature and may be acted upon with one motion. Pursuant to Section 5.1 of the City Council Rules of Conduct, any member of the Council or public may request to have an item pulled from the Consent Calendar to be acted upon individually.

Time Estimate

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Consent Calendar: 1 - 10 Minutes

1. **RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (MEASURE C) COMPETITION THIRD
YEAR PHASING REQUESTS** **1**
Recommended Action(s): **Adopt** Resolution Approving Third Year Phasing into Fiscal Year 2008-2009
for Projects in the 2004-2005 Micro, Small Project and Open/Market Rate Competitions.
2. **APPOINTMENT TO LIBRARY COMMISSION** **19**
Recommended Action(s):
 1. **Re-Appoint** Jeanne Gregg to the Library Commission to Serve a Two-Year Term, Expiring April 1,
2007; and
 2. **Direct** the City Clerk to Recruit to Fill a Vacancy on the Library Commission.

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	Consent Calendar: 1 - 10 Minutes	
3.	<u>ORDINANCE AMENDING SECTION 2.22.010 OF THE MUNICIPAL CODE DELETING THE REFERENCE TO THE PERSONNEL COMMISSION AND RENAMING THE LIBRARY COMMISSION</u>	23
	<u>Recommended Action(s):</u>	
	1. <u>Waive</u> the First and Second Reading of the Ordinance; and	
	2. <u>Introduce</u> the Ordinance Amending Section 2.22.010 of the Morgan Hill Municipal Code to Delete the Reference to the Personnel Commission and Renaming the Library Commission to Library, Culture and Arts Commission.	
4.	<u>UTILITIES AND ENVIRONMENT COMMITTEE MINUTES</u>	29
	<u>Recommended Action(s):</u>	
	1. <u>Review</u> Minutes; and	
	2. <u>Pull Items</u> for Additional Discussion, as Needed.	
5.	<u>REVISED REIMBURSEMENT AGREEMENT FOR UNDERGROUNDING OF OVERHEAD UTILITIES BY SHAW DEVELOPMENT (ALSO KNOWN AS: SHAW REAL ESTATE, INC.)</u>	33
	<u>Recommended Action(s):</u>	
	1. <u>Appropriate</u> \$281,828 from the Unappropriated Underground Utility Fund Balance (350); and	
	2. <u>Approve</u> the Amended Reimbursement Agreement; Thereby Approving Reimbursement of \$47,040 to Developer, and Payment of \$234,788 to PG&E for Undergrounding Overhead Utilities along the South Side of East Dunne Avenue, West of Walnut Grove.	
6.	<u>ACCEPTANCE OF DONATION FOR THIRD STREET BRIDGE IMPROVEMENT BY WEBCOR BUILDERS</u>	41
	<u>Recommended Action(s):</u> <u>Accept</u> Donation by Webcor Builders, Inc. for Improvements to the Third Street Bridge.	
7.	<u>ACCEPTANCE OF 2004-2005 SIDEWALK, CURBS AND GUTTER REMOVAL AND REPLACEMENT PROJECT</u>	43
	<u>Recommended Action(s):</u>	
	1. <u>Accept</u> as Complete the 2004-2005 Sidewalk, Curb and Gutter Removal and Replacement Project in the Final Amount of \$94,027; and	
	2. <u>Direct</u> the City Clerk to File the Notice of Completion with the County Recorder's Office.	
8.	<u>FINAL MAP APPROVAL FOR COYOTE ESTATES PHASE X (TRACT 9680)</u>	57
	<u>Recommended Action(s):</u>	
	1. <u>Approve</u> the Final Map, Subdivision Agreement, and Improvement Plans;	
	2. <u>Authorize</u> the City Manager to Sign the Subdivision Improvement Agreement on Behalf of the City; and	
	3. <u>Authorize</u> the Recordation of the Map and the Subdivision Improvement Agreement, Following Recordation of the Development Improvement Agreement.	
9.	<u>FINAL MAP ACCEPTANCE FOR MORGAN LANE PHASE IV (TRACT 9601)</u>	69
	<u>Recommended Action(s):</u>	
	1. <u>Approve</u> the Final Map, Subdivision Agreement, and Improvement Plans;	
	2. <u>Authorize</u> the City Manager to Sign the Subdivision Improvement Agreement on Behalf of the City; and	
	3. <u>Authorize</u> the Recordation of the Map and the Subdivision Improvement Agreement, Following Recordation of the Development Improvement Agreement.	

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10. **APPROVAL OF SUPPLEMENTAL IMPROVEMENT AGREEMENT WITH SOUTH VALLEY DEVELOPERS**..... 81
Recommended Action(s):
1. **Approve** the Supplemental Improvement Agreement with South Valley Developers, Inc.; and
2. **Authorize** the City Manager to Sign the Supplemental Improvement Agreement for Construction of Lift Station G, Subject to Review and Approval by the City Attorney.

11. **AGREEMENT WITH PG&E FOR DEPOT STREET UTILITIES UNDERGROUNDING PROJECT**..... 91
Recommended Action(s): Authorize the City Manager to Execute an Agreement, Subject to City Attorney Review and Approval, with PG&E in the Amount of \$47,500 to Perform Initial Engineering Design Work for the Depot Street Utilities Undergrounding Project.

12. **REIMBURSEMENT FOR UNDERGROUNDING OF OVERHEAD UTILITITES AND STORM DRAIN PIPE REPLACEMENT BY T.K. SINGH AND PARMINDER SINGH**..... 95
Recommended Action(s): Authorize the Reimbursement of \$58,144 for Undergrounding of Overhead Utilities and Storm Drain Pipe Replacement by T.K. and Parminder Singh.

13. **AMENDMENT TO AGREEMENT WITH THE LAW FIRM OF SHUTE, MIHALY, & WEINBERGER, LLP**..... 99
Recommended Action(s): Authorize the City Manager to Execute an Amendment to Agreement with the Law Firm of Shute, Mihaly, and Weinberger, LLP.

14. **ADOPT ORDINANCE NO. 1716, NEW SERIES**.....111
Recommended Action(s): Waive the Reading, and **Adopt** Ordinance No. 1716, New Series, and **Declare** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1616, NEW SERIES, TO GRANT ONE ADDITIONAL YEAR FOR THE CONSTRUCTION OF A 3,253 SQUARE FOOT DRIVE-THRU FAST FOOD RESTAURANT AND A SIT DOWN RESTAURANT 5,000 TO 6,500 SQUARE FEET IN SIZE AT THE NORTHWEST QUADRANT OF COCHRANE ROAD AND HIGHWAY 101 (APNs 726-33-023 & -024) (ZAA-02-18: COCHRANE – IN-N-OUT BURGER).**

15. **ADOPT ORDINANCE NO. 1717, NEW SERIES**.....115
Recommended Action(s): Waive the Reading, and **Adopt** Ordinance No. 1717, New Series, and **Declare** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A ZONING AMENDMENT TO ESTABLISH A PRECISE DEVELOPMENT PLAN FOR A 17 UNIT SINGLE FAMILY PROJECT LOCATED BETWEEN AND ADJACENT TO PEAR DRIVE AND JEAN COURT ALONG THE WEST SIDE OF HILL ROAD. (APN 728-07-47, 728-07-48, 728-07-49, 728-07-50, 728-07-51, 728-08-014, 728-08-015) (ZA-04-15: HILL – GERA).**

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|-----|---|-----|
| 16. | <u>ADOPT ORDINANCE NO. 1718, NEW SERIES</u> | 121 |
| | Recommended Action(s): <u>Waive</u> the Reading, and <u>Adopt</u> Ordinance No. 1718, New Series, and <u>Declare</u> That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A DEVELOPMENT AGREEMENT FOR APPLICATION MP-02-17: HILL - GERA (APN 728-07-47, 728-07-48, 728-07-49, 728-07-50, 728-07-51, 728-08-014, 728-08-015) (DA-04-04: HILL - GERA). | |

City Council and Redevelopment Agency Action

CONSENT CALENDAR:

ITEMS 17-19

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|-----|---|-----|
| 17. | <u>APPROVE JOINT SPECIAL AND REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF MARCH 16, 2005</u> | 127 |
| 18. | <u>APPROVE JOINT REGULAR REDEVELOPMENT AGENCY AND SPECIAL CITY COUNCIL MEETING MINUTES OF MARCH 23, 2005</u> | 145 |
| 19. | <u>APPROVE JOINT SPECIAL REDEVELOPMENT AGENCY AND SPECIAL CITY COUNCIL MEETING MINUTES OF MARCH 23, 2005</u> | 163 |

City Council Action

PUBLIC HEARINGS:

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| 20. | 5 Minutes | <u>WATER CONSERVATION SUBMETERING ORDINANCE</u> (Continued from March 16, 2005)..... | 165 |
| | | Public Hearing Opened. | |
| | | Please Limit Your Remarks to 3 Minutes. Public Hearing Closed | |
| | | Council Discussion. | |
| | | Action- <u>Continue</u> the Public Hearing to April 20, 2005. | |
| 21. | 10 Minutes | <u>ZONING AMENDMENT, ZA-05-02: TEXT AMENDMENT – MONUMENT SIGNS/FORD MOTOR COMPANY</u> (Continued from March 16, 2005)..... | 167 |
| | | Public Hearing Opened. | |
| | | Please Limit Your Remarks to 3 Minutes. Public Hearing Closed | |
| | | Council Discussion. | |
| | | Action- <u>Motion to Waive</u> the Reading in Full of Ordinance to Make a Text Amendment to the Sign Code. | |
| | | Action- <u>Motion to Introduce</u> Ordinance by Title Only. (Roll Call Vote) | |

PUBLIC HEARINGS:
Time Estimate

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22. 15 Minutes **ZONING AMENDMENT, ZA-04-22: CITY OF MORGAN HILL-ACREAGE REQUIRED FOR ANIMALS** (Continued from March 16, 2005).....189
Public Hearing Opened.
Please Limit Your Remarks to 3 Minutes. Public Hearing Closed
Council Discussion.

Action- If No Substantive Changes are Desired from the First Reading of Ordinance No. 1714 on March 2, 2005, then **Motion to Adopt** Ordinance No. 1714, New Series, as Introduced on March 2, 2005.

OR

Action- If Substantive Changes to Ordinance No. 1714, New Series are Desired, then **Motion to Waive** the Reading in Full of alternate Ordinance to Approve Text Amendments to Chapter 6.36 of the Municipal Code.

Action- **Motion to Introduce** alternate Ordinance by Title Only. (Roll Call Vote)

Action- **Motion to Take No Action** on Ordinance No. 1714, New Series.

City Council Action

OTHER BUSINESS:
Time Estimate

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23. 20 Minutes **AWARD CONTRACT FOR CONSTRUCTION OF INDOOR RECREATION CENTER (IRC) AND APPROVE CONSULTANT AGREEMENTS FOR PROFESSIONAL SERVICES**.....211

Recommended Action(s):

1. **Approve** Project Plans and Specifications;
2. **Award** Construction Contract to West Bay Builders, Inc. in the Amount of \$15,778,000 for Base Bid and Additive Alternate #4 (Acoustical Partition);
3. **Authorize** the City Manager to Execute a Consultant Agreement with Biggs Cardosa Associates, Inc. for Special Inspections and Materials Testing Services, Subject to Review and Approval by the City Attorney;
4. **Authorize** the City Manager to Execute a Consultant Agreement with Pacific Geotechnical Engineering for Earthwork Observation and Soil Testing Services, Subject to Review and Approval by the City Attorney; and
5. **Authorize** the City Manager to Execute a Consultant Agreement with Nova Partners, Inc. for Construction Management Services, Subject to Review and Approval by the City Attorney.

City Council and Redevelopment Agency Action

OTHER BUSINESS:

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24.	10 Minutes	<u>DISPOSITION OF ACTON MUSEUM</u>	217
		<u>Recommended Action(s):</u>	
		1. <u>Direct</u> the Executive Director to Pursue Staff Recommended Options #2 and #5 Concurrently;	
		2. If Options #2 and #5 Become Infeasible, <u>Direct Staff</u> to Pursue Option #3; and	
		3. <u>Direct Staff</u> to Periodically Report Progress to Agency Board.	

FUTURE COUNCIL-INITIATED AGENDA ITEMS:

Note: in accordance with Government Code Section 54954.2(a), there shall be no discussion, debate and/or action taken on any request other than providing direction to staff to place the matter of business on a future agenda.

ADJOURNMENT